

Application No.: 10/804,503
Docket No.: PE0673USCIP1

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Remarks

Status of the Application

Claims 2-14, 16-25, 27-33, 35-41, and 43 are pending.

The only outstanding rejection against the pending claims is a rejection over co-owned US Serial No. 10/669,422 (" '422 Application") and 10/670,670, now U.S. Patent 7,189,771 (" '771 Patent") under the judicially created doctrine of obviousness-type double patenting. Applicant is filing, concurrently with this paper, terminal disclaimers against the '422 Application and the '771 Patent along with the requisite 3.73(b) Statement and authorization to charge the terminal disclaimer fees to a deposit account.

Amendments to the Claims

Claims 2, 14 and 33 are being amended to delete the superfluous word "composition" following the word "nanoparticles". Claim 13 is being amended to insert a space between "to" and "1" which were previously run on. Claim 20 is being amended to correct spelling errors. Claims 29, 31, 36, 37 and 39 are being amended to correct dependence. Applicant respectfully requests that these amendments be entered as they serve to correct obvious errors and do not introduce any new matter.

Statutory Double Patenting

The statutory double patenting rejections over the '422 Application and the '771 Patent have apparently been withdrawn. Applicant respectfully draws the Examiner's attention to page 3 of the Office Action, the second paragraph under the heading *Response to Arguments*. Applicant assumes that this paragraph meant to say that the statutory double patenting rejections were being withdrawn, since on page 2, the obviousness-type double patenting ("ODP") rejections are asserted instead. Should the Applicant's understanding of the status of these rejections be incorrect or incomplete in any way, clarification is respectfully requested.

ODP Rejections Overcome by Terminal Disclaimers

Applicant files concurrently herewith a terminal disclaimer to obviate the ODP rejection over the co-pending '422 Application and another to obviate the ODP rejection over the '771 Patent, along with the 37 C.F.R. § 3.73(b) statement and authorizations to charge terminal disclaimer fees to a deposit account. Applicant respectfully submits that these submissions overcome all of the outstanding ODP rejections.

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Conclusion

Applicant respectfully submits that the pending claims are in condition for allowance, and earnestly solicits a notice of allowance for claims 2-14, 16-25, 27-33, 35-41, and 43.

Should the Examiner have questions about the status of the application or the contents of this paper, the Examiner is invited to call the undersigned at the telephone number listed below.

Respectfully submitted,



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